THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.12391, 12398, 10532, 10533, 10534, 10578, 10610, 10613 and 10620 of 2006

05.7.2006

Between:

Chatru, S/o.Devla
And others

… Petitioners

AND

The Joint Collector, Mahaboobnagar District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.12391, 12398, 10532, 10533, 10534, 10578, 10610, 10613 and 10620 of 2006

COMMON ORDER:

In all the writ petitions the order passed by the Joint Collector, Mahaboobnagar District in Revision Case No.D1/29/2004 dated 02.4.2006 is challenged. Therefore, this common order shall dispose of all the writ petitions.

The petitioners claim that they purchased the land from Sattar Miyan, one of the sons of original pattadar, late Buran Uddin, some time during 1982-1984 for a valuable consideration. They, thereafter, approached the Mandal Revenue Officer, Jedcherla (MRO), under Section 5A of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) seeking validation of the unstamped and unregistered sale deeds. According to the petitioners, after conducting enquiry, the MRO issued proceedings on 12.1.1995 regularising/validating the sale deeds under which the petitioners purchased the property from Sattar Miyan and others in respect of the land in various survey numbers situated in China Adirala village of Jedcherla Mandal in Mahaboobnagar District. Aggrieved by the same, the other sons of Buran Uddin, namely, Mohammed Moinuddin and Mohammed Dastagiruddin, respondents 2 and 3 herein, filed a revision petition under Section 9 of the Act before the Joint Collector in 2004. By impugned order dated 04.2.2004, the Joint Collector came to the conclusion that wrong entries were made in the revenue records and accordingly ordered cancellation of these entries.

Learned Counsel for the petitioners submits that the order of the Joint Collector is in violation of principles of natural justice and that none of the petitioners were served with notice as required under Rule 23 of A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity). Secondly, it is urged that without giving any reasons, the first respondent passed orders and, lastly, it is contended that against any order passed under Section 5A of the Act, appeal would lie to the jurisdictional Revenue Divisional Officer (RDO) under Section 5B of the Act and, therefore, without availing the remedy of appeal before the RDO, revision petition under Section 9 of the Act is not maintainable. **Per contra**, learned Counsel for the respondents disputes the allegation that notices are not served and submits that the enquiry was conducted properly.

Taking up the last submission of the learned Counsel for the petitioners first, this Court is afraid that the submission cannot be accepted. Section 9 of the Act reads as under.

> **9. Revision**:- The Collector may either *suo motu* or on an application made to him, call for and examine the record of any Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer under Sections 3, 5, 5A or 5B, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for consideration, he may pass orders accordingly:
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> Provided that no such order adversely affecting any person shall be passed under this section unless he had an opportunity of making a representation.

On a true interpretation of the provision, it is not possible to accept the submission that without availing the remedy of appeal a person cannot avail the remedy of revision. There are two reasons for this conclusion. First, Section 9 of the Act confers *suo motu* powers on the Joint Collector to call for record from the Recording Authority, MRO or RDO, in respect of any record of rights prepared, and examine the same to satisfy himself as to whether it is legal and correct. Secondly, Section 9 of the Act refers to the record of Recording Authority, MRO or RDO, under Sections 3, 5, 5A or 5B of the Act. This would clearly show that even against an order passed under Section 5A of the Act by the MRO a revision would directly lie to the Joint Collector.

So as to test the submission of the learned Counsel for

petitioners that notice is not served, this Court directed the learned Assistant Government Pleader for Revenue (General) to produce the record from the Office of the Joint Collector, Mahaboobnagar District. The record has been produced and has been perused by this Court. The record shows that the notice was sent to the petitioners herein and the postal authorities returned the notices with an endorsement that the petitioners are not available in the village. The Joint Collector then ordered to publish the notice in the newspapers. The publication of notice in the newspapers cannot be treated as a valid notice. Rule 23 of the Rules, which deals with the method and manner of dealing with the revision petition by the Joint Collector, reads as under.

> 23. (1) Every revision shall be in writing and setforth concisely the grounds thereof and shall be accompanied by a copy of the order or proceeding against which revision is sought. The revision petition shall bear a court-fee stamp of rupees five only.
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> (2) In case, a *suo motu* revision is initiated, the grounds on which the revision is initiated shall be communicated to the person or persons likely to be adversely affected.
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> (3) In case it appears to the Collector on examination that any such record, order or proceeding should be amended modified, annulled, reversed or remitted for reconsideration, the Collector may pass orders accordingly, after giving sufficient opportunity to the party or parties likely to be adversely affected to make written or oral representation before issue of orders.
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> (4) The orders under revision shall be final and there shall be no further review by the Collector.

Under subrule (3) of Rule 23 of the Rules, it is incumbent on the part of the Joint Collector to give sufficient opportunity to the party or parties likely to be adversely affected by the exercise of revisional power. Indeed the proviso to Section 9 of the Act also is to the same effect. Further under subrule (2) to Rule 23 of the Rules, whenever *suo motu* revision is initiated, the grounds on which the revision is initiated, shall have to be communicated to the person or persons likely to be adversely affected. When such a thing is contemplated while *suo motu* revision is exercised, there is no reason to read such requirement even when the Joint Collector exercises revisional jurisdiction on an application. When the power of revision is conferred by Section 9 of the Act itself, the procedure to be followed while serving notice in a matter of *suo motu* revision is equally applicable to the exercise of revisional power of an application. The legislature is never taken as intended to provide two procedures while exercising

similar power. It is thus clear that the notice is not properly served on the petitioners and for this reason alone the impugned order is liable to be set aside.

There were as many as twenty six (26) respondents in the revision petition filed before the Joint collector. In all these writ petitions, number of petitioners put together is fourteen (14), which shows that some of the respondents in the revision petition have not filed writ petition. Though they are adversely affected, petitioners in W.P.Nos.10533, 10534 and 10610 of 2006 are not parties to the revision petition before the Joint Collector. The impugned order was passed without notice to them. Therefore, the impugned order insofar as it adversely affects the petitioners in these writ petitions is concerned, is liable to be set aside. Accordingly, the impugned order is set aside and the matter is remitted to the Joint Collector, Mahaboobnagar District, with a direction to dispose of revision petition, after giving opportunity to petitioners and contesting respondents to raise all grounds and file papers relating to them. This exercise may be completed within a period of eight (8) weeks from the date of receipt of a copy of this order. The petitioners shall appear personally or through their counsel before the Joint Collector on 17.7.2006 with a copy of this order when the Joint Collector may hear the matter and dispose of the matter.

The writ petition, with the above observations and directions, is accordingly disposed of. There shall be no order as to costs.

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(**V.V.S.RAO,J**)

July 05, 2006.
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